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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,826	06/25/2003	Takaaki Kubodera	27922200100	1829
25227 7590 02/26/2008 MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 400 MCLEAN, VA 22102				
EXAMINER				
LU, JIPING				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
02/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/602,826

**Applicant(s)**

KUBODERA ET AL.

**Examiner**

Jiping Lu

**Art Unit**

3749

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 7/9/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 11/13/07, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Steve McAllister.

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 11, 13-15 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamata et al. (U. S. Pat. 6,520,999) in view of Hoshiyama (U. S. Pat. 5,560,751).

Patent to Kamata et al. teaches a dyeing device (Figs. 2) for dyeing a plastic lens 14 comprising a heating furnace (Fig. 2) comprising a frame section 10 forming a space (not numbered, within 10) within the heating furnace, a heating section 15 provided within the frame section 10; an openable insertion port (not shown, col. 3, lines 51-54) for allowing insertion of the lens, a lens-holding mechanism 13 for holding the lens 14, and a lens-moving mechanism 11, 12 for vertically moving the lens-holding mechanism 13 to insert all or a part of the lens 14 from the insertion port into an interior portion of the heating furnace. For claims 13-15, the lens moving mechanism and the heating temperature are controlled (col. 4, lines 35-65). The dyeing device of Kamata et al. as above includes all that is recited in claims 11, 13-15, 16-17 except for a cooling mechanism and the location of the insertion port. Hoshiyama shows in Fig. 1A, 6A, 6B a dyeing device for dyeing a plastic lens 4, 24 comprising a cooling mechanism 2, 22 (the shielding plate 2, 22 functions as cooling mechanism) within the heating furnace separate from the frame section (not shown, the structure houses heater 1, shielding plate 2, 22, coating 3, 23, lens 4, 24, holding table 5, conveyor 25) in a position corresponding to a portion of the lens 4, 24 within a space formed by the frame section. Hoshiyama teaches that the lens surface including the dye coating is subjected to a heat treatment such that during the heat treatment the dye penetrates into the substrate in an amount corresponding to the integrated amount of heat applied

to the surface of the lens substrate so that by controlling the integrated amount of heat applied to the substrate surface in dependence on the position within the surface it is possible to produce a colored lens having the desired colored density gradient (column 2, lines 10-30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dyeing device of Kamata et al. to include a cooling mechanism as taught by Hoshiyama in order to produce a colored lens having the desired colored density gradient. With regard to the claimed insertion port provided on or near a bottom surface of the frame section, it would have been an obvious matter of design choice to design the lens insertion port of Kamata et al. with any desired location in order to obtain a predictable result and to pursue an intended use since applicant has not disclosed that the claimed location of on or near a bottom surface of the frame section solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill in the art and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the dyeing apparatus of Kamata et al. as modified by Hoshiyama will perform the invention as claimed by the applicant with the lens insertion port having any kind of the location. Moreover, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEVEN B. MCALLISTER can be reached on 571 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jiping Lu/  
Primary Examiner  
Art Unit 3749